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Attorney for
The Homsy Family Revocable Living Trust

**UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA
 SACRAMENTO DIVISION**

In Re:)	CASE NO.: 08-37271-C-11 Jointly Administered – Chapter 11
)	
Kobra Properties, a California general partnership, <i>et al.</i> ¹)	Docket Control No. GWE-01
)	Date: February 16, 2010
)	Time: 9:30 AM
)	Judge: Klein
)	Courtroom: 35, Dept C
Debtor(s))	Place: 501 "I" Street, 6 th Floor Sacramento, CA 95814
)	
)	

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**MOTION BY THE HOMSY FAMILY REVOCABLE LIVING TRUST
 TO COMPEL ABANDONMENT OF PROPERTY
 (KOBRA PROPERTIES I, LLC)
 [11U.S.C. § 554; Fed. R. Bankr. P. 6007(b)]**

¹ The Debtors in these jointly administered bankruptcy cases are Kobra Properties, a California general partnership, Kobra Preserve, LLC, a California limited liability company, Vernon Street, a California limited liability company, and Rocky Ridge Center, a California limited liability company.

1 The Homsy Family Revocable Living Trust ("Homsy Trust") moves to compel the Trustee of
2 Debtor's Chapter 11 estate to abandon Debtor's membership interest in Kobra Properties I, LLP, a
3 California limited liability company (the "Company"), pursuant to Bankruptcy Code Section 554, and
4 in support of such Motion respectfully represents:

5 **Background**

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7 1. Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code (11 U.S.C.
8 Section 101 et seq.) on November 25, 2008. Steven L. Victor has been appointed trustee in
9 Debtor's case.

10 2. This court has jurisdiction to hear this motion pursuant to 28 U.S.C. §§1334 and
11 157(b)(2).

12 3. The Homsy Trust is an interested party under 11 U.S.C. Section 554 because it is the
13 owner of all other membership interests in the Company.

14 **The Property**

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16 3. Debtor is the owner of a Fifty Percent (50%) membership interest in the Company. The
17 Debtor is the manager of the Company. The remainder of the membership interests in the
18 Company are owned by The Homsy Trust.

19 4. The Company is the sole owner of real property improved with a warehouse building
20 located at 130 Cyber Court, Rocklin, California. The building is approximately 81,000 square
21 feet. California Backyard, Inc. leases 41,000 square feet and New Life Electronics, LLC leases
22 20,000 square feet. The building has 20,000 square feet vacant.

23 5. The Property is currently encumbered by a deed of trust in favor of Wells Fargo Bank.
24 The deed of trust was recorded in Official Records of Placer County on July 22, 2005 as
25 Instrument No. 2005-0095516. The current principal balance of the underlying note is
26 approximately \$4,400,000. The payments on the underlying note are currently more than one
27 month delinquent. The Company is current on property taxes, however, there are not sufficient
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1 funds on hand or expected to pay the April installment of property taxes and the Company is
2 currently in a payment plan with Placer County for prior years property tax delinquencies.

3 6. The Homsy Trust now estimates the current market value of the Property at between
4 \$2,200,000 and 3,500,000. Based on the capitalization of the existing leases with the vacant
5 space leased at the same rate as the New Life Electronics lease, the building has a value of
6 approximately \$2,400,000.

7 7. As a part of his efforts to market properties of the estate, the Trustee has sought buyers
8 for the Debtor's interest in the Company. According to discussions with the Trustee, no
9 potential buyers for the Debtors interest have been located by the Trustee.

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11 8. The Homsy Trust and the Debtor entered into a Forbearance Agreement with Wells
12 Fargo in mid 2009. By its terms that agreement has expired and Wells Fargo has informed the
13 Company it is in default in respect to various covenants under the Loan Agreement and Deed of
14 Trust.

15 16 **Not Needed For Effective Reorganization**

17 9. The Property, which is the sole asset of the Company, does not generate positive cash
18 flow at this time. The market value of the property is probably over one million dollars less than
19 the outstanding debt secured by the Property. Therefore the Debtor's interest has no monetary
20 value to the Estate. Furthermore, there is no business connection between this property and other
21 property of the Estate. The Estate has no equity in the Company or the Property.

22 23 **Conclusion**

24
25 10. An order compelling the Trustee to Abandon the Debtor's interest in the Company is
26 appropriate under Bankruptcy Code Section 554(b) because the Debtor has no equity in the Company
27 or the Property, there is apparently no market for the Debtor's interest in the Company and the
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1 Company is currently in default on its loan with Wells Fargo. Therefore the Company is not
2 necessary for an effective reorganization of the Debtor.
3

4 Wherefore The Homsy Family Revocable Living Trust Prays:

- 5 1. For an order compelling the Trustee to abandon the Estate's membership interest in Kobra
6 Properties I, LLC.
7 2. For such other relief as the Court deems just and proper.

8 Dated: January 21, 2010

SIGNATURE LAW GROUP, LLP
ATTORNEYS AT LAW

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11 By: 

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Revocable Living Trust
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